The Crimes Compensation Board Summary

ANNUAL REPORT

FOR PERIOD APRIL 1, 1984 TO MARCH 31, 1985

Alberta

ATTORNEY GENERAL

Alberta

THE CRIMES COMPENSATION BOARD

November 1, 1985

The Honourable Neil Crawford, Q.C.,
Attorney General of Alberta,
Legislature Building,
Edmonton, Alberta.

Dear Sir:

I submit herewith the Annual Report of the Crimes Compensation Board for the period April 1, 1984 to March 31, 1985.

Respectfully submitted,

Bruce V. Massie, Q.C.,
Chairman

THE BOARD

BRUCE V. MASSIE, Q.C. - CHAIRMAN

BORIS A. NAHORNICK, M.D. - VICE CHAIRMAN

TERENCE J. NUGENT - MEMBER

Copies of this report may be obtained from:

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INTRODUCTION

The Criminal Injuries Compensation Act was enacted in 1969 to provide assistance to victims of violent crime who suffer financial loss as a direct result of injuries or death.

The Crimes Compensation Board, established under The Criminal Injuries Compensation Act, consists of three members appointed by the Lieutenant-Governor-in-Council, one of whom must be a barrister and solicitor. The present members of the Board are: B.V. Massie, Q.C., Chairman; Dr. B.A. Nahornick, Vice-Chairman and T.J. Nugent, Member.

The Board is directed to hold hearings in the presence of the victim to review claims and although proceedings are informal, any false statement made to the Board is punishable by a fine not exceeding $500. Evidence is obtained from reports by police, hospitals, doctors, dentists, employers and income tax returns in addition to hearing the applicant and witnesses, if required.

The Board may make orders for compensation when injury or death is a direct result of an act or omission of another person that occurred in Alberta and is within the description of any of the criminal offences set out in Schedule 1 of the Act or to a person who attempts to make an arrest or prevents or attempts to prevent the commission of a criminal offence or assists a peace officer in so doing.

The Board may compensate for damages to or loss of property consisting of clothing or eyeglasses worn at the time of offense. By an amending Act in force after May 4, 1982, the Board may compensate up to $10,000 for loss of or damage to property caused while a peace officer is endeavouring to prevent a criminal offence or arrest an offender for the commission of a criminal offence set out in the Schedule 1 of the Act.

Claims may be considered by the Board if the crimes and injury occurred in Alberta, the details have been reported to the police within a reasonable time, the claim is received by the Board within one year of the injury or death and the loss for which the claim is made exceeds $100.

An applicant must consent to a medical examination if required by the Board and allow the Board to conduct inquiries to verify any statements made.

The Board cannot compensate for injuries caused by motor vehicles except where a spouse is killed as a result of criminal negligence on the part of the operator or because the operator was driving while impaired.

Generally, the Board's jurisdiction is limited to awarding compensation for pecuniary loss suffered by the victim, such as loss of wages or loss of support by a dependent of the victim, and expenses incurred by the victim or others on his behalf.

Compensation as damages for physical disability, disfigurement or pain and suffering can only be awarded if the victim was preventing or arresting a person for the commission of a criminal offence. Police officers have been almost the only recipients of such awards.

APPLICATIONS

During the last fiscal year the number of applications has declined slightly to 330 from 372 (249 from males, 81 from females). Residents of other provinces accounted for 18 claims, and one claim came from Australia. Of the 330 applications, 294 were for personal injury, 35 were for death benefits, and one was for property damage.

The number of decisions made and recorded by the Board was 501. Payments based on these decisions during the past year totalled $952,727. Loss of earnings accounted for more than 61 per cent of this total.

As medical and hospital expenses of most victims are covered by the provincial health plans, medical expenses paid by the Board were mainly for dental work and ambulance service.

The most frequent violent crimes giving rise to applications were:

Assault Causing Bodily Harm
Robbery
Murder
Attempted Murder
Assaulting a Police Officer
Manslaughter

In the fiscal year, 17 applicants were refused awards. Following are examples:

Decision #2343-84
Application No. 324-6

This was an application by a female for death benefits arising out of the death of her son in 1982. The application was not received until Febuary, 1984. The police and medical reports indicate that the deceased would not cooperate in giving details of the crime involved, nor in receiving medical treatment, which ultimately resulted in his death. Her application for benefits was therefore refused.

Decision #2516-84
Application No. 086-7

This was an application by a male, age 22, for compensation for injuries. The applicant had various accounts of what caused the rather severe injuries, but they appear from the medical evidence to have been consistent with a fall from a considerable height, feet first. As the Board could find no evidence of the commission of a crime, the application was refused.

Decision #2441-84
Application No. 279-5

This was an application by a male, age 27, for compensation for injuries sustained by him in 1981. The only record the police have of the incident is a phone call in December, 1982. As the incident was not reported to the police within a reasonable period of time as outlined in section 2(3)(b) of the Act, the Board refused his application.

Decision #2663-85
Application No. 257-7

This was an application by a male, age 16, for compensation for injuries sustained by him on Oct. 6, 1984. The applicant was assaulted by another juvenile, who was convicted and fined. As the applicant's expenses amount to only $44, below the minimum award of $100, no award was possible.

MONTHLY AWARDS

The Board feels confident that its power to make awards on a monthly basis is a valuable remedy. Awards of this type provide monthly payments to a victim suffering a continued disability or, in the case of a claim for death benefits, to the dependants of a victim.

There are many instances in which payment of a lump sum to a victim would be inappropriate, particularly in times of inflation. A monthly payment involves an annual review by the Board, when amendments can be made as circumstances change.

At the present time, 49 victims are receiving monthly payments, ranging from $50 to $2,300 depending on the former earning capacity of the victim. Following are examples of monthly awards made this year:

Decision #2131b-85
Application No. 031-6

Victim, male, age 50, was beaten and robbed on Dec. 19, 1982. He suffered thrombosis of the right carotid artery with a major cerebral infarction and hemiplegia. Some permanent disability is anticipated. In October, 1983 the Board awarded the applicant $20 for damaged clothing, $36 for transportation, $1,800 for loss of wages and an additional $300 per month for continuous loss of wages. A medical report was also paid, in the amount of $60. In a decision dated January, 1985, the Board ordered that the payments of $300 were to continue until further order. Total amount paid to the end of March, 1985 is $7,016.

Decision #2541-84
Application No. 068-7

Female, a resident of Lone Rock, Sask., applied for compensation for funeral expenses of her sister, who was murdered on Aug. 19, 1983. The applicant has custody of her late sister's daughter, age 5. In November, 1984 the Board awarded the applicant $2,090 for funeral and related expenses and the sum of $200 per month for the support of the deceased's daughter. Total amount paid out to date: $2,890.

Decision #2568a-85
Application No. 066-7

Victim, male, age 59, was shot in the face by his son on Dec. 29, 1983. The son then committed suicide. In Febuary, 1985 the Board awarded the applicant $8,400 to cover lost wages and $75 for damaged clothing. A counsel's fee of $250 was also awarded. The Board awarded the sum of $600 per month to be paid to the applicant, to continue until the applicant would have retired in April, 1986. Total amount paid out to date: $9,325.

INTERIM AWARDS

An interim award is a lump sum payment made when no permanent disability is expected from injuries sustained, but is usually serious enough to warrant a reassessment of the applicant's condition in six months. In the last fiscal year, 23 interim awards were granted by the Board. Following are examples:

Decision #971f-85
Application No. 063-1

Victim, male, age 33, was shot in the arm on July 6, 1978. In March, 1979 the Board awarded the applicant $689 for medical expenses and damaged clothing and $2,863 for loss of earnings. In addition, a medical report for $35 and an ambulance bill of $100 were paid. In October, 1979 the Board awarded the applicant a further $4,386 for loss of earnings and expenses in attending the hearing. The applicant at this time had some improvement in his arm and hand. In October, 1980 there was further improvement in the condition of the applicant and the Board awarded $1,500 for loss of earnings. Additional awards have been made as follows: July 1981, $1,300; August 1982, $1,388; July 1983, $1,260 and $60 for medical report; and January 1985, $1,500 for loss of earnings in 1984. Total amount paid to date: $15,081.

Decision #1868b-85
Application No. 097-5

Victim, male, age 34, was viciously beaten on Feb. 24, 1982. He suffered extensive damage to his colon, liver and spleen, requiring several major operations. Further surgery is expected. In January, 1983 the Board awarded the applicant $7,770 for lost earnings and damaged clothing. A counsel's fee of $150 and $120 for a medical report were also awarded. In Febuary, 1983 a medical report in the amount of $60 was paid for. In January, 1985 a further $12,960 was awarded for loss of earnings. Total to date: $21,060.

Decision #2393-84
Application No. 296-6

Victim, male, age 25, suffered a gunshot wound to the right leg during a hostage-taking incident on April 14, 1983. He suffered a great deal of damage to his knee joint which required plastic surgery. In July, 1984 the Board awarded the applicant $2,797 for lost earnings, damaged clothing and transportation for medical treatment. A counsel's fee of $150 was also awarded. A further hearing was held in December, 1984 at which time the applicant was awarded $2,967 for lost earnings and a counsel's fee of $100.

Decision #2400-84
Application No. 308-6

Victim, female, age 28, was attacked and sexually assaulted while at work. In addition to the trauma of the assault, the victim suffered multiple stab wounds which required surgery. In July, 1984 the Board awarded the sum of $1,008.30 to the applicant for lost wages not covered by Workers' Compensation, and $330.50 for damaged clothing, telephone calls and transportation. The Board also awarded $700 to the victim's husband due to lost earnings for time off work caring for his wife. A sum of $60 was also awarded for a medical report. The application will be reviewed again when the Workers' Compensation Board claim is finally assessed. Total paid to date: $2,098.80.

FINAL AWARDS

A final award is a one-time payment to cover a victim's loss of earnings and expenses resulting from a crime where the applicant is able to return to work with no decrease in earnings. There were 339 final payments awarded in the last fiscal year. Following are examples:

Decision #2666-85
Application No. 225-7

Victim, female, age 32, was driving her car on a highway on Jan. 7, 1984 when a criminal, who was being pursued by the police, forced her at gun point to accompany him in her car. She was on the highway for approximately one hour with a loaded revolver held to her head. As the result of the gun having been discharged close to her head, she suffered damage to her ear, which has required surgery. The Board awarded $47.76 for prescription drugs, $46 for medical expenses, $265 transportation expenses to doctors and hospital, $124 for replacement of glasses, and $498.50 for loss of earnings.

Decision #2685-85
Application No. 275-7

Applicant, female, age 32, was visiting a girlfriend on Dec. 22, 1984 when the boyfriend of the latter shot and killed the woman in the presence of the applicant. The man then committed suicide. The applicant suffered severely from trauma and nervous shock. The Board awarded $20 for damaged clothing, $150 for psychologist charges, and $165 for transportation expenses. The Board also provided for a maximum of $300 for further psychological treatments.

Decision #2691-85
Application No. 205-7

Victim, male, age 14, was assaulted on Jan. 30, 1985 by another student. The victim suffered a broken nose and damage to his teeth. The Board awarded the amount not covered by school insurance as follows: $50 for plastic surgery account, $130.50 for dental care, $20.89 for medication and $71.78 for damaged clothing.

Decision #2691-85
Application No. 295-7

Victim, male, age 19, was injured on Jan. 9, 1985 when he became involved in a fight with another person in a shopping mall. The applicant struck at the other person, missing him and hitting his hand on a metal object. The applicant sustained a fracture of his hand resulting in an absence from work for eight weeks. The Board found that the applicant must bear some responsibility for his own injury and fixes his responsibility at 50 per cent. The Board awarded $395.25.

SUPPLEMENTAL AWARDS

A supplemental award is a lump sum payment made to a victim to cover additional expenses, usually medical, which may have been incurred after the initial award. The Board granted 78 supplemental awards to applicants in the last fiscal year. Following are examples:

Decision #1323d-85
Application No. 146-2

Victim, male, age 22, was assaulted while sleeping at an apartment on Sept. 15, 1979. Both facial bones were fractured, the maxilla and orbital bones of both eyes displaced, face badly lacerated and there was damage to his teeth. The Board awarded the applicant $1,139.12 in October, 1980 for lost wages, medical expenses and dental treatment, and $105 for medical reports. In December, 1980 the Board awarded $83 for additional dental work. In March, 1981 the Board paid several small medical bills totalling $100.25. In July, 1981 an additional award of $1,167 was made for dental work. In February, 1985 the Board awarded $926.29 for facial constructive surgery and for plastic surgery. Total to date: $3,520.66.

Decision #1692a-84
Application No. 203-4

Victim, male, age 36, was shot while hunting on Dec. 8, 1981. The applicant was hit in the stomach and seriously wounded. The accused was charged with careless use of a firearm. In August, 1982 the Board awarded the applicant $4,925 for loss of earnings, damaged clothing, ambulance and hospital fee. Counsel fees of $150 were also awarded. By supplemental decision of June, 1984 the Board awarded $146 for medication for the relief of an ulcer caused by his wound. Total amount awarded to date: $5,221. The applicant was successful in a civil action and has returned $2,190.75 to the Board.

Decision #2411b-85
Application No. 063-7

Victim, male, age 30, was assaulted on April 26, 1984. The applicant suffered damage to his teeth. In July, 1984 the Board awarded $3.95 to the applicant for medication, $60 for a medical report, and $303.60 in payment of a dental account. In September, 1984 the Board awarded a further $179.63 for additional dental work. In February, 1985 the Board awarded $1,143.36 for payment of the construction and installation of a bridge. Total to date: $1,690.54.

Decision #2232a-84
Application No. 301-5

Victim, female, age 37, was assaulted by her ex-husband's new wife on June 28, 1982. The applicant was hit in the face and suffered severe bruising and a broken nose. In January, 1984 the Board awarded the sum of $500 for lost wages and $60 in payment of a medical report. The applicant subsequently underwent surgery to her nose. In June, 1984 the Board awarded her $635 for lost wages and medical expenses. Total to date: $1,195.

PAIN AND SUFFERING

The ability of the Board to award compensation for what is termed pain and suffering is limited, both in circumstances and amount. Compensation for disfigurement and pain and suffering caused by the injury can only be awarded if the injury occurred while the victim was preventing a crime or making an arrest or assisting a peace officer to do so. The maximum awarded is $10,000. The total paid out last year was $35,500, compared to $49,350 paid the previous year. The scale of these awards is well below that of comparable awards in the civil courts due to the restrictions expressed in the Act. The great majority of these awards are made to police officers who have been injured when they are arresting or pursuing offenders.

Following are examples of pain and suffering payments made in this fiscal year:

Decision #2417-84
Application No. 341-6

Victim, male, age 23, went to assist a friend who was being assaulted by a bouncer in a bar. The victim received cuts to both eyebrows and below the left eye, bruises to the head and muscle spasm to his neck. He also lost one tooth. The Board awarded him $60 for damaged clothing, $182 for dental work performed to date, $1,086 for lost wages and $750 for pain and suffering.

Decision #2394-84
Application No. 335-6

Victim, male, age 50, restaurant owner, became suspicious of a person loitering around the cashier's till. He noted the intruder had a concealed weapon and twisted the gun away, struck the intruder across the back and, when the intruder fled, he pursued and apprehended the intruder. He suffered scratches to his hand and knee and needed a finger splint for two weeks. The Board awarded him $50 for damaged clothing, $122 for an ambulance, $6.97 for medication and $750 for pain and suffering.

Decision #2697-85
Application No. 041-7

Victim, male, age 29, was injured on March 31, 1984 while attempting to prevent a robbery in the store where he was a clerk. The applicant was shot in the thigh, mouth and jaw. His injuries required a series of operations. He was not able to return to work until the end of May, 1984. The Board awarded the applicant $637 for loss of earnings not covered by Workers' Compensation and $20 for damaged clothing. The Board also awarded him $3,500 for pain and suffering.

Decision #2498-84
Application No. 106-7

Victim, male, age 36, was attending a party on July 18, 1983. One of the guests began assaulting his wife. In attempting to stop the assault, the applicant suffered an injury which resulted in the loss of his left eye. In October, 1984 the Board awarded $781.38 for ambulance services, $200 for counsel's fees, and $7,968 to the applicant for damaged clothing, transportation for medical treatments and lost wages. His award also includes $3,000 for pain and suffering.

Decision #2624-85
Application No. 155-7

Victim, male, age 34, was injured on April 16, 1984. A group of juveniles were vandalizing a fence and, while attempting to stop them, the applicant broke his right wrist. The applicant was awarded $400 for lost wages and $1,000 for pain and suffering.

PUBLIC AWARENESS

The Board believes that knowledge of the existence and mandate of the Crimes Compensation Board is increasing across the province, although the process is far from complete. One indication of this is the increase in the number of applications filed within a few days of the event.

An information brochure outlining the work of the Board and the relief it can provide has been distributed to police forces, schools, hospitals and interested groups in the province. The police forces have been provided with a summarized information card which can be given to a victim when a crime is being investigated.

The Board also wishes to acknowledge and thank the law officers of the Crown for their assistance and is mindful of the conscientious and capable manner in which the Board's staff carry out their responsibilities.

The police departments of both Calgary and Edmonton maintain Victim Services Units for assistance to victims including assistance in completing applications under the Act.

DECISIONS

The total number of decisions made by the Board in the past fiscal year was 501, broken down as follows:

Monthly Awards	43	Amending Awards	1	Supplemental Awards	78
Interim Awards	23	Final Awards	339	Applications Refused	17

PAYMENTS

Payments made during this past year based on the above decisions were:

Monthly Awards — payments	$280,305.00	
— disbursements	12,602.88	
Sub-total		$292,907.88
Interim Awards		136,693.93
Amending Awards		10.00
Final Awards		437,229.82
Supplemental Awards		85,885.65
Total		$952,727.28

A breakdown of the awards is as follows:

Loss of Earnings	$583,528.87
Medical Expenses	145,644.26
Pecuniary Loss to Dependants of Victims	78,390.00
Pain and Suffering	35,500.00
Funeral Expenses	51,050.09
Other Pecuniary Loss	48,894.46
Counsel and Legal Fees	9,719.60
	$952,727.28

FEES

Fees paid to Board members totalled $83,970. Their disbursements totalled $12,436.62, bringing the total paid out to the Board to $96,406.62. The Board held hearings on 48 days; 24 in Edmonton and 24 in Calgary.

TYPES OF CRIME

Of applications which had a first hearing during the 1984-85 period, the following were noted:

Assault on a Peace Officer	8	Indecent Assault on a Female	4
Assault Causing Bodily Harm	241	Kidnapping	1
Attempted Murder	24	Manslaughter	6
Careless Use of a Firearm	3	Murder	29
Causing Bodily Harm with Intent	2	Rape	3
Common Assault	2	Robbery With Violence	38
Dangerous Use of Firearm	1		

RESIDENCE OF APPLICANTS

ALBERTA

Airdrie	2
Ardmore	1
Bellevue	1
Bragg Creek	1
Bruderheim	1
Calgary	152
Caroline	1
Devon	1
Dewberry	1
Drumheller	1
Edmonton	95
Edson	3
Foremost	1
Fort McMurray	1
Fort Saskatchewan	3
Good Fish Lake	1
Grande Cache	2
Grande Prairie	3
High Level	1
High Prairie	1
Hobbema	1
Innisfail	1
Jasper	1
Leduc	1
Lethbridge	3
Little Smoky	1
Lloydminster	1
Medicine Hat	2
Morley	1
Mundare	1
Okotoks	1
Peace River	2
Plamondon	1
Red Deer	7
Rocky Mountain House	1
Sherwood Park	2
Spruce Grove	1
St. Albert	2
Strathmore	1
Sylvan Lake	2
Thorhild	1
Trochu	1
Turner Valley	1
Wetaskiwin	1
Whitecourt	1

OTHER PROVINCES

British Columbia

Armstrong	2
Burnaby	1
Penticton	1
Sechel	1
Surrey	1
Vancouver	2

Nova Scotia

Dartmouth	1

Ontario

Kitchener	1
Mississauga	1
Pickering	1
Weston	1

Saskatchewan

Estevan	2
Lone Rock	1
Marshall	1
Rosetown	1

OTHER COUNTRIES

Waverley, New South Wales, Australia	1

STATISTICAL SUMMARIES
BREAKDOWN OF AWARDS

Year	Loss of Earnings	Medical Expenses	Pecuniary Loss to Dependants	Pain and Suffering	Funeral Expenses	Other Pecuniary Loss	Counsel & Legal Fees	TOTALS
1984-85	$583,529	$145,644	$78,390	$35,500	$51,050	$48,894	$9,720	$952,727
1983-84	563,212	123,695	79,310	49,350	74,568	65,272	8,679	964,086
1982-83	425,858	101,021	32,830	45,700	53,788	55,673	9,681	724,551
1981-82	297,800	45,991	51,805	37,950	23,674	26,746	5,651	489,617
1980-81	302,328	39,637	45,789	24,150	24,577	31,302	7,025	474,808
1979-80	365,081	45,175	41,582	21,450	42,034	27,512	7,730	550,564
1978-79	301,217	32,621	30,577	17,036	43,695	27,123	8,580	460,849
1977	267,759	31,355	36,370	26,200	21,298	20,665	8,012	411,659
1976	219,314	23,379	32,320	35,200	5,744	45,106	10,268	371,331
1975	162,881	11,229	41,390	3,500	1,114	9,451	5,710	235,275
1974	131,967	10,336	17,127	8,000	1,248	9,081	4,540	182,299
1973	72,753	8,690	9,841	8,750	—	5,973	2,214	108,221
1972	83,941	8,212	19,697	11,570	3,374	3,761	2,514	133,069
1971	47,178	6,810	8,350	3,610	561	2,677	2,292	71,478
1969-70	39,692	5,105	521	5,250	741	10,596	2,589	64,493